Government from levying anything more than the quit rent, permanently fixed. The sanad does not authorize the levy of building assessment when the Land is used for building purposes. Government will have to respect the sanads already issued and it appears that this section, as it now stands, will have to be cancelled.

———o———

[a] CHAPTER X-A.

Of the Record of Rights.

Exemption from provisions of this chapter.

135A. The Governor in Council may, by notification in the *Bombay Government Gazette*, direct that this chapter, or any specified provisions thereof, shall not be in force in any specified local area, or with reference to any lands or any class of villages or lands, or generally.

[a] This chapter was inserted by Bom. IV of 1913, s. 66.

It contains the provisions, redrafted and amended, of the repealed Record of Rights Act, (Bombay Act 4 of 1903).

N. 1. The provisions of this chapter shall be in force in all areas except where Government directs to the contrary.

Formerly Government had exempted Inam villages and permanent municipal districts from the Record of Rights but that exemption has now been withdrawn in the case of surveyed Inam villages (except those in the Ratnagiri District) and in the case of permanent municipal districts. (G. N. No. 288 dated 11th January 1913 and G. N. No. 11581 dated 23rd December 1913).

G. 1. **Cantonments.**—Government of India have negatived a proposal to secure a Record of Rights in lands and buildings in cantonments. (G. R. No. 4196 dated 21st May 1915).

135B. (*1*) A record of rights shall be maintained in every village and such record shall include the following particulars:— The record of rights.

(*a*) the names of all persons (other than tenants) who are holders, occupants owners or mortgagees of the land or assignees of the rent or revenue thereof;

(*b*) the nature and extent of the respective interests of such persons and the conditions or liabilities (if any) attaching thereto;

(*c*) the rent or revenue (if any) payable by or to any of such persons;

(*d*) such other particulars as the Governor in Council may prescribe by rules made in this behalf.

(2) Provided that the said particulars shall be entered in the record of rights with respect to perpetual tenancies, and also with respect to tenancies of any other classes to which the Governor in Council may, by notification in the *Bombay Government Gazette*, direct that the provisions of this section shall apply in any local area or generally.

G. I. In exercise of the powers conferred by Sections 135 A and 135 B (2) of the Bombay Land Revenue Code, 1879 (Bombay 5 of 1879), the Governor in Council is pleased further to amend Government Notification in the Revenue Department, No. 263, dated the 12th January 1904, as follows, namely :—

For clause (5) of the said Notification the following clause shall be substituted :—

"(5) Lands included within the site of any village, town or city, as from time to time determined under section 126 of the Bombay Land Revenue Code, 1879 (Bombay 5 of 1879);

Provided that the provisions of Chapter X-A of the said Code shall apply to the lands included within any such site if a survey has been or shall hereafter be, extended to such site under section 131 of the said Code;

Provided further that whenever the provisions of the said chapter shall, by reason of the foregoing proviso, apply to the lands included within any such site, then—

(*a*) the provisions of section 135 B of the said Code shall apply to tenancies for a term of 21 years and upwards within such site, and

(*b*) a register of tenancies shall not be maintained for the lands included within such site."

G. N. R. D. 13565 of 23rd December 1918

Acquisition of rights to be reported.

135C. Any person acquiring, by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any right as holder, occupant, owner, mortgagee, landlord or tenant of the land, or assignee of the rent or revenue thereof, shall report orally or in writing his acquisition of such right to the village accountant within three months from the date of such acquisition, and the said village accountant shall at once give a written acknowledgment of the receipt of such report to the person making it:

No. 58

Section 135-*B*—

Insert the following as G. 3 :—

"Section 135-B (2) refers to tenancies existing at the time of introduction of the Record of Right.

Sections 135-C and 135-D apply to new tenancies which come into being after the introduction of the Record of Right. In both cases the tenancies to be entered in the Record of Rights must either be perpetual or notified under section 135-B (2). Tenancies which are not perpetual or not so notified should be entered in the Register of tenancies as prescribed in No. 113 of the Land Revenue Rules."

(G.R. No. L.C. 2865, dated 18-7-1931.)

No. 59

Section 135-C—

Insert G. 1 :—

" A report under section 135-C regarding the acquisition of a rig
is not liable to court fee stamp under the Court Fees Act."

(G.R. No. 5366/28, dated 30-8-1930.)

provided that where the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the village accountant;

provided further that any person acquiring a right by virtue of a registered document shall be exempted from the obligation to report to the village accountant.

Explanation I.—The rights mentioned above include a mortgage without possession, but do not include an easement or a charge not amounting to mortgage of the kind specified in section 100 of the Transfer of Property Act, 1882. IV of 1882.

Explanation II.—A person in whose favour a mortgage is discharged or extinguished, or lease determines, acquires a right within the meaning of this section.

N. 1. The procedure for recording all changes of Kabjedars of Inam lands is prescribed at pages 66 to 69 of the New Manual of Revenue Accounts compiled by Mr. Anderson.

135D. (*1*) The village accountant shall enter in a register of mutations every report made to him under section 135C and shall also make an entry therein respecting the acquisition of any right of the kind mentioned in sub-section (*1*) of section 135C which he has reason to believe to have taken place and of which a report has not been made to him under the said section. Register of mutations and register of disputed cases.

(*2*) Whenever a village accountant makes an entry in the register of mutations he shall at the same time post up a complete copy of the entry in a conspicuous place in the chavdi, and shall give written intimation to all persons appearing from the record of rights or register of mutations to be interested in the mutation, and to any other person whom he has reason to believe to be interested therein.

(*3*) Should any objection to an entry made under sub-section (*1*) in the register of mutations be made either orally or in writing to the village accountant, it shall be the duty of the village accountant to enter the particulars of the objection in a register of disputed cases.

(*4*) Orders disposing of objections entered in the register of disputed cases shall be recorded in the register of mutations by such officers and in such manner as may be prescribed by rules made by the Governor in Council in this behalf.

(*5*) The transfer of entries from the register of mutations to the record of rights shall be effected subject to such rules as may be made by the Governor in Council in this behalf: provided that an entry in the register of mutations shall not be transferred to the record of rights until such entry has been duly certified.

Entries in register of mutations how to be certified.

(*6*) Entries in the register of mutations shall be tested and if found correct, or after correction as the case may be, shall be certified by a revenue officer of rank not lower than that of a Mámlatdár's first karkun.

(7) The provisions of this section shall apply in respect of perpetual tenancies and also in respect of any tenancies mentioned in a notification under sub-section (2) of section 135B, but the provisions of this section shall not apply in respect of other tenancies which shall be entered in a register of tenancies in such manner and under such procedure as the Governor in Council may prescribe by rules made in this behalf. Tenancies.

J. I. **Mamlatdar holding an inquiry into Record of Right.**—A Mamlatdar holding an inquiry relating to Record of Rights, under chapter XII of the Land Revenue Code (Bombay Act V. of 1879), is a Revenue Court within the meaning of Section 195 (1) (c) of the Criminal Procedure Code 1889.

Emperor V. Narayan Ganpaya Havnik. 16 Bombay Law Reporter 678 and I. L. R. 39 Bom. 310.

135E. (1) Any person whose rights, interests or liabilities are required to be, or have been entered, in any record or register under this chapter shall be bound, on the requisition of any revenue officer or village accountant engaged in compiling or revising the record or register, to furnish or produce for his inspection, within one month from the date of such requisition, all such information or documents needed for the correct compilation or revision thereof as may be within his knowledge or in his possession or power. Obligation to furnish information.

(2) A revenue officer or village accountant to whom any information is furnished or before whom any document is produced in accordance with a requisition under sub-section (1) shall at once give a written acknowledgment thereof to

the person furnishing or producing the same and shall endorse on any such document a note under his signature, stating the fact of its production and the date thereof.

J. I. **Forgery.**—The defendant applied, in August 1908, to the Mamlatdar to record under the Record of Rights Act, 1903, a lease under which he claimed to be entitled to a rent of 400 cocoanuts from the plaintiff. The plaintiff having complained that the lease was a forgery the Mamlatdar declined to record it. On appeal, the Collector ordered, on the 11th August 1909, that the lease should be recorded. On the strength of that record, the defendant sued in the Mamlatdar's court to enforce the terms of the lease and recovered on various occasions the cocoanuts due under it. The plaintiff sued, within three years of the recovery of the cocoanuts, to recover back the value of the cocoanuts, on the footing that the alleged lease was a forgery. It was contended that the suit was barred under art. 93 of the Indian Limitation Act, on the ground that it was filed more than three years after the date of an attempt to enforce it against plaintiff.

Held, (1) that the suit was not barred under art. 93 of the Indian Limitation Act, 1908, for the words "attempt to enforce" would, in their ordinary and natural meaning, be applicable to an attempt to recover rent under the lease, which attempt first took place within three years of the institution of the suit;

(2) that the attempt to have the lease recorded, under the Record of Rights Acts, in August 1908, could not be put higher than an unsuccessful attempt to have the document registered in a case in which registration was necessary (art. 92); and that such an attempt was not an attempt to enforce the lease.

Achyut Rayapa Shanbhag V. Gopal Subbay Shanbhag 17 Bombay Law Reporter 635 and I.L.R, 40 Bom. 22.

135F. Any person neglecting to make the report required by section 135C, or furnish the information or produce the documents required by section 135E within the prescribed period shall be liable, at the discretion of the Collector, to be charged a fee not exceeding twenty-five rupees, which shall be leviable as an arrear of land revenue. Penalty for neglect to afford information.

135G. Subject to rules made in this behalf by the Governor in Council— Requisition of assistance in preparation of maps.

(*a*) Any revenue officer or village accountant may for the purpose of preparing or revising any map or plan required for or in connection with any record or register under this chapter exercise any of the powers of a survey officer under sections 96 and 97, except the power of assessing the cost of hired labour under section 97, and

(*b*) Any revenue officer of a rank not lower than that of an Assistant or Deputy Collector or of a survey officer may assess the cost of the preparation or revision of such map or plan and all contingent expenses, including the cost of clerical labour and supervision, on the lands to which such maps or plans relate, and such costs shall be recoverable as a revenue demand.

Certified copy of record to be annexed to plaint or application.

135H. (*1*) The plaintiff or applicant in every suit or application as hereinafter defined relating to land situated in any area to which this chapter applies shall annex to the plaint or application a certified copy of any entry in the record of rights, register of mutations or register of tenancies relevant to such land.

(*2*) If the plaintiff or applicant fails so to do for any cause which the Court or conciliator deems sufficient, he shall produce such certified copy within a reasonable time to be fixed by the Court or conciliator, and if such certified copy is not so annexed or produced the plaint or application shall be rejected, but the rejection thereof shall not of its own force preclude the presentation of a fresh plaint in respect of the same cause of action or of a fresh application in respect of the same subject-matter, with a certified copy annexed.

(*3*) After the disposal of any case in which a certified copy of any such entry has been recorded, the Court shall communicate to the Collector any error appearing in such entry and any alteration therein that may be required by reason of the decree or order, and a copy of such communication shall be kept with the record. The Collector shall in such case cause the entry to be corrected in accordance with the decree or decision of the Court, so far as it adjudicates upon any right required to be entered in the record of rights, register of mutations or register of tenancies. The provisions of this sub-section shall apply also to an appellate or revisional Court provided that, in the case of an appellate or re

visional decree or order passed by the High Court or the Court of the Judicial-Commissioner of Sind, the communication shall be made by the Court from which the appeal lay or the record was called for.

(*4*) In this section—

(*a*) " Suit " means a suit to which the provisions of the Code of Civil Procedure, 1908, or of the Mámlatdárs' Court Act, 1906 apply ;

(*b*) " Application " means an application—

(*i*) for the execution of a decree or order in a suit;

(*ii*) for the filing of an agreement stating a case for the opinion of the Court under the Code of Civil Procedure, 1908;

(*iii*) for the filing of an agreement to refer to arbitration under paragraph 17 of the Second Schedule to the said Code ;

(*iv*) for the filing of an award under paragraph 20 of the said Schedule ;

(*v*) to a conciliator under section 39 of the Dekkhan Agriculturists' Relief Act, 1879 ; XVII of 1879.

(*vi*) of any other kind to which the Governor in Council may, by notification in the *Bombay Government Gazette*, direct that this section shall apply ;

(*c*) an application shall be deemed to relate to land if the decree or other matter,

with respect to which the application is made, relates to land;

(*d*) a suit, decree or other matter relating to land shall, without prejudice to the generality of the expression, be deemed to include a suit, decree or other matter relating to the rent or tenancy of land.

G, 1. This section shall apply to applications to file awards under the Indian Arbitration Act, 1899 (IX of 1899). (G. N. No. 2998 dated 31st March 1914)

G. 2. Government of India have remitted court fee of one anna chargeable on application to village officers for copies of entries in Record of rights. (G. R. R. D. No. 1421 dated 5th February 1916).

G. 3. The levy by village accountants of copying fees per entry or khata in respect of the village forms relating to the Record of Rights is as follows:—

No of village form.	Description of form.	Rate of copying fees.
VIIIA	Khatas of holding.	One anna per khata having 5 survey numbers or less and one and half anna for a khata of more than 5 survey numbers.
VIIIB	Annual khatas of dues and recoveries	One anna for each khata.

(G. R. No. 10809 dated 6th September 1917).

Refusal of assistance under section 87.

135I. Notwithstanding anything in section 87, the Collector shall refuse assistance to any superior holder under the said section, if his claim to such assistance is not supported by an

No. 61

Section 135-*H*—

Substitute the following *for* G. 2 :—

"Certified copies of entries in Record of Rights and applications for such copies when required for filing in Court under section 135-H are exempt from Court Fee Stamps.

Certified copies of extracts from entries in Record of Rights when attached to applications for the execution of Civil Court decrees are also exempt from Court Fee Stamps."

(G.N. No. 590, dated 16-9-1921.)

No. 62

Section 135-*K*—

Insert G. 1 :—

"Applications made to village officers for copies of entries in the Record of Rights are exempt from Court Fee Stamps."

(G.N. No. 590, dated 16-9-1921.)

entry or entries duly made in the record of rights, register of mutation or register of tenancies.

G. I. Proposed exemption from the levy of Court fees on certified extracts from the Record of Rights required for being filed with applications for assistance suits and in the applications for obtaining such extracts.

Government are not prepared to notify under section 135H of the Land Revenue Code that the provisions of that section shall apply to applications under section 86.

G. O. R. D., No. 6507, dated 14th June 1918.

135J. An entry in the record of rights and a certified entry in the register of mutations shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor. Presumption of correctness of entries in record of rights and register of mutations.

J. I. **Probative value.**—Section 135J of the Bombay Land Revenue Code enacts that entries in the Record of Rights shall be presumed in effect to be a true statement of their contents; and in the absence of any other evidence, the Court, under the section, would be obliged to be guided by any facts so entered in the Record of Rights.

Anandibai Bhaskar Nilkanth V. Narayan Dhonddev Tattoo. 17 Bombay Law Reporter 49.

135K. Applications for certified copies of entries in the record of rights, the register of mutations and the register of tenancies may be made to, and such copies may be given by, the village accountant, Mahalkari or Mamlatdar. Certified copies.

Bar of suits and exclusion of Chapter XIII.

135L. (*1*) No suit shall lie against the Secretary of State or Government or any officer of Government in respect of a claim to have an entry made in any record or register that is maintained under this chapter, or to have any such entry omitted or amended, and the provisions of Chapter XIII shall not apply to any decision or order under this chapter.

Appeal.

(*2*) The correctness of the entries in the record of rights and register of mutations shall be inquired into and the particulars thereof revised, by such Revenue officers and in such manner and to such extent and subject to such appeal as the Governor in Council may from time to time by rules prescribe in this behalf.

CHAPTER XI.

Of the Realization of the Land Revenue and other Revenue Demands.

Liability for land revenue.

[a]**136.** (*1*) In the case of unalienated land the occupant, and in the case of alienated land the superior holder, shall be primarily liable to Government for the payment of the land revenue, including all arrears of land revenue, due in respect of the land. Joint occupants and joint holders who are primarily liable under this section shall be jointly and severally liable.

(*2*) In case of default by any person who is primarily liable under this section, the land revenue, including arrears as aforesaid, shall be recoverable from any person in possession of the land: